

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MICHAEL DAVID GOLDMAN,** §  
**Movant,** §  
§  
**v.** § **Civil No. 3:19-CV-0347-D**  
§ **(Criminal No. 3:14-CR-334-D-1)**  
**UNITED STATES OF AMERICA,** §  
**Respondent.** §

**ORDER**

I

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Movant filed objections, and the undersigned district judge has made a *de novo* review of those portions of the proposed findings, conclusions, and recommendation to which objection was made. The objections are overruled, and the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

It is therefore ordered that leave to amend is denied as to movant's newly-raised and untimely claim that counsel was ineffective for failing to file a requested notice of appeal, as well as his proposed claim under *United States v. Davis*, \_\_\_ U.S. \_\_\_, 139 S. Ct. 2319 (2019). Further, movant's amended claim that counsel was ineffective for failing to challenge his 18 U.S.C. § 924(c)(1) conviction is denied, and his amended motion to vacate sentence under 28 U.S.C. § 2255 is summarily dismissed with prejudice. *See Rule 4(b) of the Rules Governing Section 2255 Proceedings.*

## II

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the movant has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If movant files a notice of appeal,

( ) movant may proceed *in forma pauperis* on appeal.

(X) movant must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

**SO ORDERED.**

December 17, 2019.

  
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SIDNEY A. FITZWATER  
SENIOR JUDGE